



STATE OF ILLINOIS

HEALTH FACILITIES AND SERVICES REVIEW BOARD

525 WEST JEFFERSON ST. • SPRINGFIELD, ILLINOIS 62761 • (217) 782-3516 FAX: (217) 785-4111

DOCKET NO: I-02	BOARD MEETING: December 10, 2012	PROJECT NO: 12-056	PROJECT COST: Original: \$3,474,627
FACILITY NAME: RAI Lincoln Highway – Fairview Heights		CITY: O'Fallon	
TYPE OF PROJECT: Substantive			HSA: XI

PROJECT DESCRIPTION: The applicants (Fresenius Medical Care Holdings, Inc. and RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway – Fairview Heights) are proposing the discontinuation and establishment of a 20-station ESRD facility located in O'Fallon. The cost of the project is \$3,474,627. **The project completion date is September 30, 2014.**

The applicants received an Intent to Deny at the October 30-31, 2012 State Board Meeting. Additional information in response to the intent to deny was received on November 14, 2012. The applicants' state in part:

"On October 31, 2012 we are before the Board requesting approval to relocate this existing 20 station facility, because it has been at its current location for over 15 years, its lease has expired and Fresenius is currently paying exorbitant holdover rent and the facility is in need of extensive repair which would be almost as costly as the relocation, but would not address the fact that the facility is cramped (220 GSF per station – well under your standards). The Board voted an intent to deny on this project to relocate existing stations in an area where this is a need for stations. We are relocating without adding stations. We met the criteria for need to discontinue/relocate. The basis for the Board's intent to deny was the fact that the facility was at 76% utilization, and not the required 80% utilization. Currently, the facility would need to admit only two patients to achieve 80% utilization."

At the conclusion of this report are the transcripts from the October State Board Meeting and the applicant's response to the intent to deny.



EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The applicants (Fresenius Medical Care Holdings, Inc. and RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway - Fairview Heights) are proposing the discontinuation and establishment of a 20-station ESRD facility located in O'Fallon. The cost of the project is \$3,474,627.
- **The anticipated project completion date is September 30, 2014.**

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- This project is before the State Board because the project proposes to establish a health care facility as defined by Illinois Health Facilities Planning Act.

BACKGROUND:

- On December 21, 2005 the chairman of the State Board approved the change of ownership (E-95-05) of this facility to Liberty Dialysis Holdings, Inc. from Gambro Healthcare at a cost of \$11.5 million.
- In January 2012 the State Board approved a change of ownership for this facility at a cost of \$6.7 million. This change of ownership was part of a nationwide merger involving the ownership transfer of 260 facilities from Liberty Dialysis Holdings, Inc. to Fresenius Medical Care Holdings, Inc.

PURPOSE OF THE PROJECT:

- **The applicants state** *the purpose of the project is to provide dialysis services to the residents of Fairview Heights/O'Fallon and to move into a new modern facility approximately 2 miles and 5 minutes from the existing site.*

NEED FOR THE PROJECT:

- To discontinue and establish a dialysis service
 1. the discontinue must be warranted;
 2. there must be a calculated need in the planning area;
 3. the proposed service must provide service to planning area residents;
 4. there must be a demand for the service in the planning area;
 5. the proposed service must improve access;
 6. the proposed service will not cause an unnecessary duplication of service or maldistribution of service; and,
 7. will not reduce the utilization of other area providers.

COMPLIANCE ISSUES

- Neither applicant has outstanding compliance issues with the State Board.



PUBLIC HEARING/COMMENTS

- No public hearing was requested and no letters of support or opposition have been received by the State Board Staff.

FINANCIAL AND ECONOMIC FEASIBILITY

- The entirety of the project will be funded through internal sources (Cash and Securities/Fair Market Value of the Leases and a review of the financial statements indicate sufficient cash is available to fund the project.

CONCLUSIONS:

- The discontinuation is warranted and the State Board Staff does not believe the proposed relocation will create an unnecessary duplication or maldistribution of service.
- **The applicants addressed a total of 18 review criteria and have not met the following criteria:**

State Board Standards Not Met	
Criteria	Reasons for Non-Compliance
1110.1430 (i) Relocation of Facility	The applicants are currently operating at 74.17% occupancy. The applicants have not met the State Board's requirement that the facility be at 80% occupancy.



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STATE AGENCY REPORT
Fresenius Medical Care Fairview Heights
PROJECT #12-056

Applicants	Fresenius Medical Care Holdings, Inc. and RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway – Fairview Heights.
Facility Name	RAI Lincoln Highway – Fairview Heights
Location	Fairview Heights
Application Received	June 15, 2012
Application Deemed Complete	June 15, 2012
Review Period Ended	August 15, 2012
Review Period Extended by the State Agency	No
Public Hearing Requested	No
Applicants' Deferred Project	No
Can Applicants Request Another Deferral?	Yes
Applicants' Modified the Project	No

I. The Proposed Project

The applicants (Fresenius Medical Care Holdings, Inc. and RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway – Fairview Heights) are proposing the discontinuation and establishment of a 20-station ESRD facility located in O'Fallon. The cost of the project is \$3,474,627. **The project completion date is September 30, 2014.**

II. Summary of Findings

- A. **The State Agency finds the proposed project does not appear to be in conformance with the provisions of Part 1110.**
- B. **The State Agency finds the proposed project appears to be in conformance with the provisions of Part 1120.**

III. General Information

The applicants are Fresenius Medical Care Holdings, Inc. and RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway – Fairview Heights and Fresenius Medical Care Holdings, Inc. Fresenius Medical Care Holdings, Inc is the parent



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organization for all the entities. The current facility is located at 821 Lincoln Highway in Fairview Heights. The new facility will be located at 124 Regency Park Drive, O'Fallon. RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway - Fairview Heights is the operating entity and Savvi Investments, Inc. is the owner of the site. Upon project approval the facility will be known as **Fresenius Medical Care Regency Park**. The proposed facility will be located in the HSA XI ESRD planning area. HSA XI is comprised of the Illinois Counties of Clinton, Madison, Monroe, and St. Clair. According to the September 2012 update to the IDPH Inventory of Health Care Facilities ("Inventory"), HSA XI shows a computed need of 5 ESRD stations.

TABLE ONE					
Facilities within 30 minutes or proposed site					
Facility	City	Stations	Time	Utilization	Met Utilization?
Davita Shilo	Shilo	12	1.96	0.00%	No
Davita Metro East	Belleville	36	8.44	81.02%	Yes
Davita Sauget	Sauget	16	13.71	82.29%	Yes
Davita Maryville	Maryville	12	18.9	69.44%	No
Davita Granite City	Granite City	20	21.29	60.00%	No
Time determined by Map Quest					
Utilization taken from March 2012 Renal Network Data					
Davita Shilo approved as permit 11-097 on January 10, 2012					

There is no land acquisition cost for this project and projected operating start-up costs deficit is \$125,409. This is a substantive project subject to both a Part 1110 and Part 1120 review. Project obligation will occur after permit issuance. The anticipated project completion date is September 30, 2014.

IV. The Proposed Project - Details

The applicants (Fresenius Medical Care Holdings, Inc. and RAI Care Centers of Illinois LLC d/b/a RAI Lincoln Highway - Fairview Heights) are proposing the discontinuation of a 20 station ESRD facility in Fairview Heights and the establishment of a 20-station ESRD facility located in O'Fallon. The new facility will be located in 9,448 of leased space and is approximately 2 miles and 5 minutes from the old facility. The cost of the project is \$3,474,627. The new



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facility will be located in 9,448 of leased space. The project completion date is September 30, 2014.

V. Project Costs and Sources of Funds

The total estimated project cost is \$3,474,627. The proposed project is being funded with cash and securities of \$2,084,099 and a lease with a Fair Market Value of \$1,390,528. Table Two outlines the project's costs and uses of funds.

TABLE TWO	
Project Uses and Sources of Funds	
Uses of Funds	Clinical
Modernization Contracts	\$1,341,616
Contingencies	\$147,483
A & E Fees	\$145,000
Moveable Equipment	\$450,000
Fair Market Value of Leased Space	\$1,390,528
Total Uses of Funds	\$3,474,627
Sources of Funds	Clinical
Cash and Securities	\$2,084,099
Leases (fair market value)	\$1,390,528
Total Sources of Funds	\$3,474,627

VI. Cost/Space Requirements

Table Three displays the project's cost/space requirements for the project. The clinical portion comprises approximately 100% of the cost and GSF.

TABLE THREE							
Aurora Dialysis Center Cost/Space Allocation							
Clinical Department	Cost	Existing GSF	Proposed GSF	New	Modernized	Vacated	As Is
ESRD	\$3,474,627	0	9,448	0	9,448	0	0
Total	\$3,388,525	0	9,448	0	9,448	0	0



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VII. Safety Net Information

The establishment of the dialysis facility will not have any impact on safety net services in the community. Outpatient dialysis services are not typically considered "safety net" services, to the best of our knowledge. However, we do provide care for patients in the community who are economically challenged and/or who are undocumented aliens, who do not qualify for Medicare/Medicaid. We assist patients who do not have insurance in enrolling when possible in Medicaid and/or Medicaid as applicable, and also our social services department assists patients who have issues regarding transportation and/or who are wheel chair bound or have other disabilities which require assistance with respect to dialysis services and transport to and from the unit.

This particular application will not have an impact on any other safety net provider in the area, as no hospital within the area provides dialysis services on an outpatient basis.

Fresenius Medical Care is a for-profit publicly traded company and is not required to provide charity care, nor does it do so according to the Board's definition. However, Fresenius provides care to all patients regardless of their ability to pay. There are a number of patients treated by Fresenius who either do not qualify for or will not seek any type of coverage for dialysis services. These patients are considered "self-pay" patients. These patients are invoiced as all patients are invoiced, however payment is not expected and Fresenius does not initiate any collections activity on these accounts. These unpaid invoices are written off as bad debt. Fresenius notes that as a for profit entity, it does pay sales, real estate and income taxes. It also does provide community benefit by supporting various medical education activities and associations, such as the Renal Network and National Kidney Foundation.

The table below shows the amount of "self-pay" care provided for the 3 fiscal years prior to submission of the application for **all Fresenius Medical Care facilities in Illinois** and the amount of care provided to Medicaid patients for the three fiscal years prior to submission of the application for **all Fresenius Medical Care facilities in Illinois**. This



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includes in-center hemodialysis, peritoneal dialysis, home hemodialysis & sub-acute hemodialysis.

TABLE FOUR Safety Net Information Fresenius Medical Care Facilities in Illinois			
NET REVENUE	\$364,295,636	\$397,467,778	\$353,355,908
CHARITY CARE			
	2009	2010	2011
Charity Care (# of self-pay patients)	260	146	93
Charity (self-pay) Cost	\$3,642,751	\$1,307,966	\$632,154
% of Charity Care to Net Rev.	1.00%	0.33%	0.20%
MEDICAID			
	2009	2010	2011
Medicaid (# of patients)	1,783	1,828	1865
Medicaid (revenue)	\$40,401,403	\$44,001,539	\$42,367,328
% of Medicaid to Net Revenue	11.90%	11.07%	12%

VIII. Criterion 1110.130 - Discontinuation

The applicant shall provide at least the following information:

- 1) Identification of the categories of service and the number of beds, if any, that are to be discontinued;
- 2) Identification of all other clinical services that are to be discontinued;
- 3) The anticipated date of discontinuation for each identified service or for the entire facility;



- 4) The anticipated use of the physical plant and equipment after discontinuation occurs;
 - 5) The anticipated disposition and location of all medical records pertaining to the services being discontinued and the length of time the records will be retained;
 - 6) For applications involving discontinuation of an entire facility, certification by an authorized representative that all questionnaires and data required by HFPB or IDPH (e.g., annual questionnaires, capital expenditures surveys, etc.) will be provided through the date of discontinuation and that the required information will be submitted no later than 60 days following the date of discontinuation.
- b) **Reasons for Discontinuation – Review Criterion**
The applicant shall document that the discontinuation is justified.
- c) **Impact on Access – Review Criterion**
The applicant shall document that the discontinuation of each service or of the entire facility will not have an adverse impact upon access to care for residents of the facility's market area.

The applicants stated "the facility is difficult to access given the traffic patterns at the existing location. The current space can no longer accommodate the patients and staff. The lobby is too small for patients in wheelchairs and their family. There is no conference room to conduct staff and quality control meetings. The building is in need of extensive repairs and the HVAC system needs updating."

There will be no impact on access as the proposed discontinuation is a relocation of an existing 20 station ESRD facility approximately 2 miles and 5 minutes from the existing site. Medical records will be transferred to the new location. There will be no impact on access because the proposed project is for the discontinuation and the establishment of a 20 station ESRD facility. There will be no reduction or addition of stations in this planning area as result of this proposed discontinuation. The applicants have provided all of the information required by the State Board. The discontinuation is warranted.



THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE DISCONTINUATION CRITERION (77 IAC 1110.130).

IX. Section 1110.230 - Project Purpose, Background and Alternatives

A. Criterion 1110.230(a) - Background of Applicant

The Criterion states:

- "1) An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character, to adequately provide a proper standard of health care service for the community. [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFPB shall consider whether adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by such person or entity (refer to 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").

The applicant provided a list of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, a certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application, and authorization permitting IHFSRB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted.

B. Criterion 1110.230(b) - Purpose of the Project

The Criterion states:



The applicant shall document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other, per the applicant's definition.

- 1) The applicant shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project. Examples of such information include:
 - A) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population, higher or lower fertility rates) that may affect the need for services in the future;
 - B) The population's morbidity or mortality rates;
 - C) The incidence of various diseases in the area;
 - D) The population's financial ability to access health care (e.g., financial hardship, increased number of charity care patients, changes in the area population's insurance or managed care status);
 - E) The physical accessibility to necessary health care (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).
- 2) The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).
- 3) The applicant shall detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.
- 4) For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.



The applicants propose to establish a 20-station ESRD facility and modernize 9,448 gross square feet of leased space. The applicants state *the purpose of the project is to provide dialysis services to the residents of Fairview Heights/O'Fallon and to move into a new modern facility approximately 2 miles and 5 minutes from the existing site.*

The applicants cited quantifiable goals as being the ability to improve access while monitoring patient demand, and that the facility will achieve quality outcomes as demonstrated by achieving 91.55% of patients having a URR greater than or equal to 65%, and 93% of patients having a Kt/V greater than or equal to 1.2.

C. Criterion 1110.230(c) - Alternatives to the Proposed Project

The Criterion states:

"The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

- 1) Alternative options shall be addressed. Examples of alternative options include:**
 - A) Proposing a project of greater or lesser scope and cost;**
 - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;**
 - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and**
 - D) Other considerations.**
- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.**



- 3) **The applicant shall provide empirical evidence, including quantified outcome data, that verifies improved quality of care, as available."**

The applicants propose a 20-station ESRD facility. The applicants considered the following alternatives:

1. **Pursuing a project of lesser scope**
2. **Pursuing a joint venture**
3. **Using Other ESRD facilities**

The applicants rejected the first alternative because it would not resolve the need to relocate to a newer building to provide improved access and more modern space for both patients and staff. The second alternative was rejected because Fresenius Medical Care has sufficient resources to fund the entire project costs. The third alternative was rejected because other facilities could not accommodate the workload of the existing facility.

The applicants note that the proposed project is the most effective option, planning for future growth now affords lower rent options, provides employment, and cost savings to patients. The applicants' further note that while the cost of the project is higher than doing nothing, the cost is an issue only to Fresenius Medical Care. There is no increase in healthcare costs to the patients since Medicare covers all dialysis patients and is a needed service that a patient cannot seek unless medically necessary.

X. Section 1110.234 - Project Scope and Size, Utilization and Unfinished/Shell Space - Review Criteria

A) Size of Project

The Criterion states:

"The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed gross square footage (GSF) cannot exceed the GSF standards of Appendix B, unless the additional GSF can be justified by documenting one of the following:



- 1) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
- 2) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;
- 3) The project involves the conversion of existing bed space that results in excess square footage."

The applicants propose to establish a 20 station ESRD facility in 9,448 GSF of leased space. The State board standard is 360-520 GSF per station. Therefore there is 473 GSF per station, which is within the State Board standard. The applicants have met the requirements of this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE SIZE OF PROJECT CRITERION (77 IAC 1110.234(a)).

B) Criterion 1110.234 - Project Utilization

The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. The number of years projected shall not exceed the number of historical years documented. If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall justify its own utilization standard by providing published data or studies, as applicable and available from a recognized source, that minimally include the following:

- 1) Clinical encounter times for anticipated procedures in key rooms (for example, procedure room, examination room, imaging room);
- 2) Preparation and clean-up times, as appropriate;
- 3) Operational availability (days/year and hours/day, for example 250 days/year and 8 hours/day); and



4) Other operational factors.

The applicants (Dr. Koch) have identified 38 pre ESRD patients that will need dialysis within two years after project completion. All patients (87 patients) currently receiving care at the existing facility will transfer to the new facility. If the number of patients materializes as projected the applicants will be at the required target occupancy by the second year after project completion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT DOES APPEAR TO BE IN CONFORMANCE WITH THE PROJECT UTILIZATION CRITERION (77 IAC 1110.234(b)).

XI. Section 1110.1430 - In-Center Hemodialysis Projects - Review Criteria

The criterion for establishing an ESRD facility reads as follows:

- 1) 77 Ill. Adm. Code 1100 (formula calculation)**
 - A) The number of stations to be established for in-center hemodialysis is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.**
 - B) The number of stations proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the utilization standard specified in 77 Ill. Adm. Code 1100.**
- 2) Service to Planning Area Residents**
 - A) Applicants proposing to establish or add stations shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.**



- B) Applicants proposing to add stations to an existing in-center hemodialysis service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.
- C) Applicants proposing to expand an existing in-center hemodialysis service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility).

3) **Service Demand - Establishment of In-Center Hemodialysis Service**

The number of stations proposed to establish a new in-center hemodialysis service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new facility, the applicant shall submit projected referrals. The applicant shall document subsection (b)(3)(A) and either subsection (b)(3)(B) or (C).

A) **Historical Referrals**

- i) If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of service, for each of the latest two years.
- ii) Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient facility.

B) **Projected Referrals**



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The applicant shall provide physician referral letters that attest to:

- i) The physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, as reported to The Renal Network at the end of the year for the most recent three years and the end of the most recent quarter;**
- ii) The number of new patients (by facility and zip code of residence) located in the area, as reported to The Renal Network, that the physician referred for in-center hemodialysis for the most recent year;**
- iii) An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience. The anticipated number of referrals cannot exceed the physician's documented historical caseload;**
- iv) An estimated number of existing patients who are not expected to continue requiring in-center hemodialysis services due to a change in health status (e.g., the patients received kidney transplants or expired);**
- v) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;**
- vi) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services; and**



- vii) Each referral letter shall contain a statement attesting that the information submitted is true and correct, to the best of the physician's belief.

5) Service Accessibility

The number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the planning area:

- i) The absence of the proposed service within the planning area;
- ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;
- iii) Restrictive admission policies of existing providers;
- iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;
- v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.



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b) Planning Area Need – Review Criterion

The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)

According to the September 2012 update to the IDPH Inventory of Health Care Facilities ("Inventory"), HSA IX shows a computed need of 5 ESRD stations.

2) Service to Planning Area Residents

The facility will be located on the northeast area of HSA XI therefore the applicants have identified all 87 patients will come from within HSA XI.

3) Service Demand

The applicants submitted a referral letter from Dr. Koch (Memorial Medical Group, LLC.) that met all of the requirements of the State Board. The physician identified 87 existing patients by zip code that will transfer to the new facility. In addition the applicants identified thirty-eight pre ESRD patients that will utilize the proposed facility within two years of project completion.

4) Service Accessibility

There is no absence of service in the planning area, or access limitation due to payor status, nor does the area population or existing care system exhibit indicators of medical care problems, nor are there restrictive admission policies at existing care providers in the planning area.

There are existing facilities within 30 minutes that are operating at less than target occupancy, however this is a station for station relocation and if the relocation is not approved an increase in the number of stations needed will increase to 25 stations. The State Board Staff believes the relocation is warranted.



THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PLANNING AREA NEED CRITERION (77 IAC 1110.1430(b)).

C) Unnecessary Duplication/Maldistribution

- 1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:**
 - A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;**
 - B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and**
 - C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of station service that are proposed by the project.**
- 2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, stations and services characterized by such factors as, but not limited to:**
 - A) A ratio of stations to population that exceeds one and one-half times the State average;**
 - B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or**



- C) **Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above utilization standards.**
- 3) **The applicant shall document that, within 24 months after project completion, the proposed project:**
 - A) **Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and**
 - B) **Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.**

1. Unnecessary Duplication/ Mal-distribution of Services

The applicant provided a list of all zip code areas that are located within 30 minutes of the proposed site as required. According to the applicant, there is a total population of 478,736 within 30 minutes of the proposed facility based upon the 2010 census. Based upon the 2010 census there is 1 station per every 4,603 residents compared to the state average of 1 station per every 3,347 residents. The applicants' states there will not mal-distribution of service because the ratio of stations to population without the Fairview Heights stations is comparable to the State ratio. There will no excess of stations in this planning area as the proposed project is a station for station replacement. The State Board Staff does not believe the relocation will create a malidistribution or unnecessary duplication of service in this planning area.

THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE SERVICE DEMAND CRITERION (77 IAC 1110.1430 (b)(4)).

D) Staffing - Availability

The Criterion states:

"The applicant shall document that relevant clinical and professional



staffing needs for the proposed project were considered and that licensure and JCAHO staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.

1) Qualifications

- A) Medical Director - Medical direction of the facility shall be vested in a physician who has completed a board-approved training program in nephrology and has at least 12 months experience providing care to patients receiving dialysis.**
- B) Registered Nurse - The nurse responsible for nursing services in the unit shall be a registered nurse (RN) who meets the practice requirements of the State of Illinois and has at least 12 months experience in providing nursing care to patients on maintenance dialysis.**
- C) Dialysis Technician - This individual shall meet all applicable State of Illinois requirements (see 210 ILCS 62, the End Stage Renal Disease Facility Act). In addition, the applicant shall document its requirements for training and continuing education.**
- D) Dietitian - This individual shall be a registered dietitian with the Commission on Dietetic Registration, meet the practice requirements of the State of Illinois (see the Dietetic and Nutrition Services Practice Act [225 ILCS 30]) and have a minimum of one year of professional work experience in clinical nutrition as a registered dietitian.**
- E) Social Worker - The individual responsible for social services shall have a Master's of Social Work and meet the State of Illinois requirements (see 225 ILCS 20, the Clinical Social Work and Social Work Practice Act)."**

The applicants are proposing to establish a 20-station ESRD facility and have provided the necessary information as required by this criterion at pages 99-110 of the application for permit.

THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE STAFFING CRITERION (77



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IAC 1110.1430 (e)(1)).

E) Support Services

The Criteria states:

"An applicant proposing to establish an in-center hemodialysis category of service must submit a certification from an authorized representative that attests to each of the following:

- 1) Participation in a dialysis data system;**
- 2) Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and**
- 3) Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed facility; or the existence of a signed, written agreement for provision of these services with another facility."**

The applicants are proposing to establish a 20-station ESRD facility and have provided the necessary documentation as required by this criterion at page 111 of the application for permit.

THE STATE AGENCY FINDS PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH SUPPORT SERVICES (77 IAC 1110.1430 (D))

F) Minimum Number of Stations

The minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:

- 1) Four dialysis stations for facilities outside an MSA;**
- 2) Eight dialysis stations for a facility within an MSA.**

The proposed 20 station ESRD facility will be located in an MSA. The applicants have met the requirements of this criterion

THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE MINIMUM NUMBER OF



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STATIONS CRITERION (77 IAC 1110.1430 (g)).

G) Continuity of Care

An applicant proposing to establish an in-center hemodialysis category of service shall document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.

The applicants have provided the required affiliation agreement at page 113 of the application for permit. The transfer agreement is with Memorial Hospital in Belleville. The applicants have met the requirements of this criterion.

THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE CONTINUITY OF CARE CRITERION (77 IAC 1110.1430 (h)).

H) Relocation of Facilities – Review Criterion

This criterion may only be used to justify the relocation of a facility from one location in the planning area to another in the same planning area and may not be used to justify any additional stations. A request for relocation of a facility requires the discontinuation of the current category of service at the existing site and the establishment of a new category of service at the proposed location. The applicant shall document the following:

- 1) That the existing facility has met the utilization targets detailed in 77 Ill. Adm. Code 1100.630 for the latest 12-month period for which data is available; and**
- 2) That the proposed facility will improve access for care to the existing patient population.**

The applicants are proposing the relocation of a 20 station ESRD facility that is currently operating at 74.17%. The applicants have not met the requirements of this criterion.

THE STATE AGENCY FINDS THE PROPOSED PROJECT DOES NOT



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APPEAR TO BE IN CONFORMANCE WITH THE ASSURANCES CRITERION (77 IAC 1110.1430 (i)).

I) Assurances

The Criterion states:

"The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that:

- 1) By the second year of operation after the project completion, the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal; and**
- 2) An applicant proposing to expand or relocate in-center hemodialysis stations will achieve and maintain compliance with the following adequacy of hemodialysis outcome measures for the latest 12-month period for which data are available:
≥ 85% of hemodialysis patient population achieves area reduction ratio (URR) ≥ 65% and ≥ 85% of hemodialysis patient population achieves Kt/V Daugirdas II .1.2."**

The applicants provided the certification information at pages 73 of the application for permit as required of the criterion.

THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE ASSURANCES CRITERION (77 IAC 1110.1430 (j)).

XI. 1120.120 - Availability of Funds

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable:

- a) Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to:**



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- 1) the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and
 - 2) interest to be earned on depreciation account funds or to be earned on any asset from the date of applicant's submission through project completion;
- b) Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience. Provide a list of confirmed pledges from major donors (over \$100,000);
- c) Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;
- d) Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including:
- 1) For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the issue, including any discounting anticipated;
 - 2) For revenue bonds, proof of the feasibility of securing the specified amount and interest rate;
 - 3) For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.;
 - 4) For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital



improvements to the property and provision of capital equipment;

- e) **Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;**
- f) **Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;**
- g) **All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.**

The applicants are funding the project with cash and securities of \$2,084,099 and the FMV of the lease of \$1,390,528. A review of the applicants' financial statements indicates that sufficient cash is available to fund the project.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE AVAILABILITY OF FUNDS CRITERION (77 IAC 1120.120 (a)).

XII. 1120.130 - Financial Feasibility

Financial Viability Waiver

The applicant is NOT required to submit financial viability ratios if:

- 1) **all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or**

HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.



- 2) the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA), or its equivalent; or

HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.

- 3) the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.

b) **Viability Ratios**

The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards. The latest three years' audited financial statements shall consist of:

- 1) Balance sheet;
- 2) Revenues and expenses statement;
- 3) Changes in fund balance; and
- 4) Changes in financial position.

HFSRB NOTE: To develop the above ratios, facilities shall use and submit audited financial statements. If audited financial statements are



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not available, the applicant shall use and submit Federal Internal Revenue Service tax returns or the Federal Internal Revenue Service 990 report with accompanying schedules. If the project involves the establishment of a new facility and/or the applicant is a new entity, supporting schedules to support the numbers shall be provided documenting how the numbers have been compiled or projected.

c) **Variance**

Applicants not in compliance with any of the viability ratios shall document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

The applicants are funding the project with cash and securities of \$2,084,099 and the FMV of the lease of \$1,390,528. A review of the applicants' financial statements indicates that sufficient cash is available to fund the project.

Table Five outlines Fresenius Medical Care credit rating from all three credit rating agencies. These credit ratings are **opinions** of the three rating agencies on the ability of a corporation to meet its financial obligation on time and in full.

TABLE FIVE Fresenius Credit Rating			
	Standard & Poor's	Moody's	Fitch
Corporate Credit Rating	BB	Ba1	BB
Outlook	positive	stable	positive
BB— Less vulnerable in the near-term but faces major ongoing uncertainties to adverse business, financial and economic conditions. Ba1-Speculative investment. Occurs often in deteriorated circumstances, usually problematic to predict future development 'BB'- ratings indicate an elevated vulnerability to default risk, particularly in the event of adverse changes in business or economic conditions over time; however, business or financial flexibility exists which supports the servicing of financial commitments			

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT
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FEASIBILITY CRITERION (77 IAC 1120.130 (a)).

XIII. Section 1120.140 - Economic Feasibility

A. Criterion 1120.140(a) - Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or

2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:

A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or

B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

The applicants are funding the project with cash and securities of \$2,084,099 and the FMV of the lease of \$1,390,528. A review of the applicants' financial statements indicates that sufficient cash is available to fund the project. The applicants have provided the necessary attestation that borrowing (leasing) is less costly than the liquidation of existing investments. The applicants have met the requirements of this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE REASONABLENESS OF FINANCING ARRANGEMENTS CRITERION (77 IAC 1120.140(a)).

B. Criterion 1120.140(b) - Terms of Debt Financing



This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;**
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;**
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.**

The applicants are funding the project with cash and securities of \$2,084,099 and the FMV of the lease of \$1,390,528. A review of the applicants' financial statements indicates that sufficient cash is available to fund the project. The applicants have attested that the selected form of debt financing (leasing) will be at the lower net cost available to the applicants. The applicants have met the requirements of this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TERMS OF DEBT FINANCING CRITERION (77 IAC 1120.140(b)).

C. Criterion 1120.140(c) - Reasonableness of Project Cost

The applicant shall document that the estimated project costs are reasonable and shall document compliance with the State Board's standards as detailed in 77 IAC 1120.

Modernization Contracts (\$1,341,616) and Contingencies (\$147,483) -
These costs total \$1,489,099 or \$156.95 per gross square feet.



(\$1,489,099/9,448 GSF = \$157.61/GSF) This appears reasonable when compared to the State Board standard of \$183.68/GSF.

Contingencies - These costs total \$147,483. These costs are 10.99% of modernization costs. This appears reasonable when compared to the State Board standard of 10%-15% of modernization costs.

Architect and Engineering Fees - These costs total \$145,000 or 9.73% of modernization and contingency costs. This appears reasonable when compared to the State Board standard of 6.90% -10.36% of modernization and contingency costs.

Moveable Equipment - These costs total \$450,000 or \$22,500 per station. This appears reasonable when compared to the State Board standard of \$39,945.

Fair Market Value of Leased Space - These costs are \$1,390,528. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE REASONABLENESS OF PROJECT COST CRITERION (77 IAC 1120.140 (c)).

D) Criterion 1120.140 (d) - Projected Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

The applicants anticipate the direct operating costs per treatment to be \$68.00. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECT DIRECT OPERATING COSTS CRITERION (77 IAC 1120.140 (d)).



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E) Criterion 1120.140 (e) - Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

The applicants anticipate the total effect of the Project on Capital Costs per treatment to be \$10.38. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS CRITERION (77 IAC 1120.140 (e)).

ORIGINAL

**STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD**

(MEETING HELD OCTOBER 30 & 31, 2012)

**PROCEEDINGS HELD IN OPEN SESSION
ON**

OCTOBER 31, 2012

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3 Springfield, Illinois 62761

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9 OPEN SESSION

10 (October 31, 2012)

11

12 Regular session of the meeting of the State of

13 Illinois Health Facilities and Services Review Board was

14 held on October 30 and 31, 2012, at Bolingbrook Golf Club,

15 2001 Rodeo Drive, Bolingbrook, Illinois.

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1 PRESENT:

2 Dale Galassie - Chairman
3 John Hayes - Vice-Chairman
4 James Burden
5 Alan Greiman
6 Kathy Olson
7 Richard Sewell
8 David Penn
9 Philip Bradley
10

11 ALSO PRESENT:

12 Courtney Avery - Administrator
13 Catherine Clark - Board Staff
14 Frank Urso - General Counsel
15 Juan Morado - Assistant Counsel
16 Alexis Kendrick - Board Staff
17 Claire Burman - Board Staff
18 Michael Constantino - IDPH Staff
19 George Roate - IDPH Staff
20 David Carvalho - IDPH
21 Bill Dart - IDPH
22 Michael C. Jones - DHFS
23
24

Reported by:

20 Karen K. Keim
21 CRR, RPR, CSR-IL, CRR-MO
22 Midwest Litigation Services
23 115 S. Lasalle Street, Suite 2600
24 Chicago, IL 60611

1 MR. ROATE: Mr. Sewell?

2 MR. SEWELL: No. There is no need in the
3 Planning Area, and the reason why we have a Certificate of
4 Need is to prevent unnecessary duplication of services.
5 What happens when you have capacity that's unused,
6 everybody still pays for it. It's not like a gas station
7 or a grocery store, where the weaker competitor goes out of
8 business. There's a long lag time before healthcare
9 facilities go out of business, because we pay for
10 depreciation and interest expense unused capacity. So, it
11 all just sits there, and that's what depletes the hospital
12 trust fund. And so I vote no.

13 MR. ROATE: Thank you, sir.
14 Chairman Galassie?

15 CHAIRMAN GALASSIE: No.

16 MR. ROATE: That's six votes in the
17 affirmative, two votes in the negative.

18 CHAIRMAN GALASSIE: Motion passes. Thank you
19 very much.

20 CHAIRMAN GALASSIE: Moving on to Project
21 H-14, RAI Lincoln Highway. No public comment. We would
22 invite folks to the table who are representing O'Fallon.

23 (Pause)

24 CHAIRMAN GALASSIE: Our intention -- for

1 Board members and others, we are planning to go to
2 approximately 12:30 and then break for lunch. Again, we
3 have an aggressive agenda today, so we will attempt to move
4 forward.

5 Good morning, folks. If you could pull the
6 mics closely, please, introducing yourself and spelling
7 your name for our reporter, then we will swear you in.

8 MR. ALDERSON: Richard Alderson (spells name).

9 MS. WRIGHT: Lori Wright (spells name).

10 MS. VOGEL: Geralyn Vogel (spells name).

11 MS. RANALLI: Clare Ranalli (spells name).

12 CHAIRMAN GALASSIE: Thank you.

13 Staff report, please.

14 MR. CONSTANTINO: Thank you, Mr. Chairman.

15 The applicants are proposing the
16 discontinuation and establishment of a 20-station ESRD
17 facility located in O'Fallon, Illinois. The cost of the
18 project is approximately \$3.5 million. The anticipated
19 project completion date is September 30th, 2014. There was
20 no public hearing requested and no opposition letters
21 received.

22 Thank you, Mr. Chairman.

23 CHAIRMAN GALASSIE: Thank you.

24 Comments for the Board.

1 MR. ALDERSON: Good morning. Thank you for the
2 opportunity to be here before you today on behalf of
3 Fresenius RAI Fairview Heights Dialysis Center. My name is
4 Richard Alderson, and I am the Regional Vice-President,
5 responsible for southern Illinois. I am here to support
6 the relocation of the 20-station Fairview Heights facility
7 to O'Fallon, which is two miles away from the current
8 location.

9 The size of the current site is inadequate and
10 the need of building repairs are very costly. This project
11 meets all of the Board's criteria, except for utilization.
12 We are currently at 76 percent utilization as of September
13 30th, and we're only 5 patients away from reaching the 80
14 percent utilization required. We're currently admitting 5
15 patients per months. We have 5 patients to be admitted to
16 the facility now. Due to the condition of the site, I ask
17 that you not let the lack of 5 patients prohibit us from
18 moving to a more modern facility for easier physical access
19 for our patients.

20 Thank you.

21 CHAIRMAN GALASSIE: Thank you. I open it up
22 to the Board for questions or comments.

23 MR. GREIMAN: Okay. I get to ask the question
24 I asked. My question -- you heard my question. You guys

1 have H-14, H-17, I-01, and you have '14 -- two-year date
2 for them and more. Others, like H-15, H-16, they do it in
3 a year, in less than a year. Why is it taking you so long
4 to do.

5 MS. WRIGHT: When I figure out the project
6 completion date for these, I consider sometimes the time of
7 the year when I think we're going to be approved. If it's
8 a land site and it's winter time, I know we're probably not
9 going to start for four or five months. Sometimes it's
10 difficult to get permits. Once the facility is done, we do
11 start a patient or two, but we have to wait for CMS
12 certification, life safety certification. So sometimes --

13 MR. GREIMAN: But you tell us you have
14 patients ready to go, that people are calling already.

15 MS. WRIGHT: Well, the patients identified in
16 the application are two years out from today. These are
17 patients in Stage 3 and 4 of kidney failure.

18 MR. GREIMAN: I'm trying to understand why it
19 takes you so long. What you do, you close the place for
20 anybody else. Nobody can go in for two years because,
21 "Well, they're already there," but you're not there.

22 MS. RANALLI: Judge Greiman, these are
23 existing patients. We already have -- first of all, we
24 appreciate your concern about the inventory that you're

1 bringing up, not only for dialysis but for all projects.
2 But this is a relocation of an existing facility. So, that
3 concern isn't apparent, because we have 20 stations now and
4 we're just relocating those 20 stations.

5 MR. GREIMAN: So it should be easier than
6 other situations.

7 MS. RANALLI: We still have to -- it's not
8 easier, because we're relocating to another site. So, we
9 have to do the construction, build out the facility, and
10 then once we do that, we have to go to the Illinois
11 Department of Public Health, and it takes some time -- not
12 always, but occasionally -- for them to send one of their
13 reviewers, because the State has a lot going on, and then
14 they have to certify the unit for occupancy before we can
15 transfer that patient. So, what we do is, we build in a
16 year and a half's time frame, so we don't have to come back
17 to you and request an alteration, if it takes longer than
18 we think that it is going to take. You know, I think your
19 point is well founded about the inventory, but in this
20 particular application, it's not a concern, because we're
21 not changing the inventory at all for this, and we just
22 want to build in enough time so we don't have to come back
23 in front of you for an alteration request, because usually
24 you have a busy agenda, and that's evident today.

1 So, thank you.

2 MR. GREIMAN: Perhaps you could provide our
3 Staff with an average time frame that it takes for you to
4 get through the State Health Plan.

5 MS. WRIGHT: The whole process is about 18 to
6 24 months.

7 MR. GREIMAN: Well, I'm just saying, maybe you
8 can give us a sense -- we applied on January 3rd and we got
9 the thing 2 years later or 15 months later, whatever you
10 did. I'd like to see what it is, 5 or 6 of those things.
11 Not that you're not telling the truth. We just want to
12 have the facts.

13 MS. WRIGHT: We do have that in our annual
14 reports that we send in to the Board. We have a time line
15 of all of the events that are occurring in the project.

16 MR. CONSTANTINO: We'll get you that
17 information, Judge.

18 MR. PENN: Following up on that question, I
19 saw an application yesterday, \$109 million project.
20 They're going to have that completed in the same time frame
21 you're building this project. So, I would assume they'd
22 have to go through the same process to be certified,
23 whatever.

24 MS. WRIGHT: There is some construction

1 involved in that project, and then we do have to wait for
2 certification. I don't close the project until we receive
3 the certification letter, which can take an additional
4 three months.

5 MR. PENN: What I'm saying, you've got a
6 project that's of \$109 million value to build, and they're
7 going to do it faster than you guys do a project that's
8 what, \$3 million? That's where the suspicion lies. Are
9 you trying to just lock up a market where somebody else
10 cannot compete for beds and needs and so forth? That's
11 what it appears.

12 MS. WRIGHT: Yeah, it appears. Actually,
13 trying to give them a suitable construction end date or
14 completion date, because I don't want to have -- a lot of
15 our projects, we've had we've had to send in renewals and
16 sometimes two renewals, and like Clare said, you're busy
17 and that ties up the Board's time and my time, too. So we
18 try --

19 MR. GREIMAN: Truly, how many times do you
20 think this Board has been told, "Oh, well, it's 80 percent
21 finished," and we say, "No, no. That's it. You can't
22 finish it"? That's never happened. We regularly say,
23 "okay. Fine. We'll give you another 6 months or 4 months
24 or a year."

1 MR. CONSTANTINO: Judge, before they can close
2 out the project, we have to have evidence that the facility
3 is certified for Medicare.

4 MR. GREIMAN: I understand.

5 MR. CONSTANTINO: That does take some time.

6 MR. GREIMAN: That's why I want to know what
7 that time frame is.

8 MR. CONSTANTINO: But we'll get you that
9 information you're requesting.

10 MR. GREIMAN: Okay.

11 MS. RANALLI: I would also like to comment
12 that Fresenius, to my knowledge, has never been approved
13 for a project that hasn't completed, except for maybe like
14 one -- was it Lockport, where we had to surrender a permit?
15 So, we do not do these projects to close out the market and
16 then later surrender the stations because we're trying to
17 keep competition out. We do complete our projects.

18 CHAIRMAN GALASSIE: On time?

19 MS. RANALLI: On time, right.

20 MS. WRIGHT: It's actually to our advantage to
21 get them up and running sooner, start serving patients.
22 So, to delay it wouldn't make sense on our part.

23 CHAIRMAN GALASSIE: Any other questions from
24 Board members?

1 MR. SEWELL: Did you consider the alternative
2 of discontinuing the 20-station and then moving a lower
3 number so that you would come in and be in compliance with
4 our occupancy standards? Because you're pretty close
5 anyway. I haven't done the math.

6 MS. WRIGHT: There is a need for 5 stations in
7 this HSA.

8 MR. SEWELL: Okay.

9 MR. ALDERSON: And as far as patient
10 admissions, when we looked at the number, we admitted 52
11 patients in the facility so far this year. So, we're
12 averaging about 5 patients per month. So as of September,
13 we were short, but we're averaging about 5 admissions per
14 month.

15 CHAIRMAN GALASSIE: Any further questions?

16 MR. GREIMAN: I have one more.

17 CHAIRMAN GALASSIE: Judge.

18 MR. GREIMAN: This is not to this particular
19 issue, but I understand that Fresenius had 53 percent of
20 all of the renal stations in the state. What is it now?
21 Do you know?

22 MS. WRIGHT: It's about the same.

23 MR. GREIMAN: 53 percent?

24 MS. WRIGHT: I don't know the exact number,

1 but it's a little over 50 percent.

2 MR. GREIMAN: Is that a healthy thing? You
3 don't have to answer that. That's okay.

4 CHAIRMAN GALASSIE: Moving forward, may I
5 have a motion to approve Project 12-056, RAI Lincoln
6 Highway O'Fallon, to discontinue and reestablish a
7 20-station ESRD facility?

8 MR. BURDEN: So moved.

9 MR. GREIMAN: Second.

10 CHAIRMAN GALASSIE: Moved and seconded. Roll
11 call, please.

12 MR. ROATE: Motion made by Mr. Hayes, seconded
13 by Justice Greiman.

14 Mr. Bradley?

15 MR. BRADLEY: Yes.

16 MR. ROATE: Dr. Burden?

17 MR. BURDEN: Yes. And I want to mention to
18 the Southern Director of Fresenius that I'm voting yes,
19 even though it's a Fresenius application, in view of the
20 fact that all the competing units within 30 minutes drive
21 time are DaVita's.

22 MR. ALDERSON: Thank you.

23 MR. ROATE: Justice Greiman?

24 MR. GREIMAN: Yes.

1 MR. ROATE: Mr. Hayes?

2 MR. HAYES: Yes.

3 MR. ROATE: Ms. Olson?

4 MS. OLSON: No, based on the current facility
5 not being at capacity.

6 MR. ROATE: Mr. Penn?

7 MR. PENN: No, based on the current facility
8 not at capacity.

9 MR. ROATE: Mr. Sewell?

10 MR. SEWELL: No. Failure to meet the
11 relocation criteria.

12 MR. ROATE: Chairman Galassie?

13 CHAIRMAN GALASSIE: No.

14 MR. ROATE: That's four in the affirmative and
15 four in the negative.

16 CHAIRMAN GALASSIE: Motion does not pass.

17 And I believe the motion was made by
18 Dr. Burden, George.

19 MR. ROATE: Was it? Sorry about that.

20 MR. URSO: So you're going to be receiving an
21 Intent to Deny. You have another opportunity to come
22 before the Board, as well as supply additional information.

23 (Pause)

24 CHAIRMAN GALASSIE: Item H-15, Project 12-058



Fresenius Medical Care

November 13, 2012

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

Ms. Courtney Avery
Administrator
Illinois Health Facilities & Services Review Board
525 W. Jefferson St., 2nd Floor
Springfield, IL 62761

RE: #12-056, Supplemental Information in Response to Intent to Deny

On October 31, 2012 we are before the Board requesting approval to relocate this existing 20 station facility, because it has been at its current location for over 15 years, its lease has expired and Fresenius is currently paying exorbitant holdover rent and the facility is in need of extensive repair which would be almost as costly as the relocation, but would not address the fact that the facility is cramped (220 GSF per station - well under your standards). The Board voted an intent to deny on this project to relocate existing stations in an area where this is a need for stations. We are relocating without adding stations. We met the criteria for need to discontinue/relocate. The basis for the Board's intent to deny was the fact that the facility was at 76% utilization, and not the required 80% utilization. Currently, the facility would need to admit only two patients to achieve 80% utilization.

We are respectfully requesting approval to relocate for the following reasons:

- We meet the criteria for relocation due to the fact that residents are entitled to modern facilities per the Board's rules, and this facility is cramped and the renovation to provide a modern facility would be almost as costly as relocating, but would not address the small size of the facility, which hinders patient care and is unpleasant for our staff. Renovating the facility while providing treatment would be difficult for patients and staff as well. The Board Staff Report noted we met the criteria for discontinuation/relocation;
- Although there is a need for stations in the service area, Fresenius is not adding stations as part of the relocation since the facility historically hovers at just below the 80% target utilization rate - it is simply proposing to relocate its existing stations;

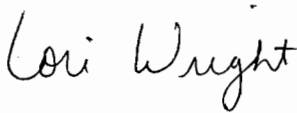
Fresenius Medical Services ♦ North Division

One Westbrook Corporate Center, Suite 1000 Westchester, IL 60154 708-562-0371

- The reason the facility is just under the utilization rate is that it has an isolation station, which is available only for patients with Hepatitis or other contagious diseases (although Hepatitis is the usual need for isolation). This station by its very nature only dialyzes a limited number of patients, and therefore impacts the overall utilization of the facility;
- If we cannot relocate we may be forced to close this almost full facility. The other facilities in the area (none of which are Fresenius facilities) cannot accommodate these patients; and
- While there are six dialysis facilities within thirty minutes of the facility we are proposing to relocate, it is the only Fresenius facility.

We appreciate your consideration of the project in light of these circumstances, and request your approval to relocate an existing dialysis facility.

Sincerely,

A handwritten signature in cursive script that reads "Lori Wright".

Lori Wright
Senior CON Specialist

cc: Clare Ranalli